

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BRIAN KEENAN,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 66899</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 14, 2016, Sondra Mercier and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**5241 Devon Avenue, Castle Rock, Colorado
Douglas County Schedule No. R0334561**

The subject is a 1,803 square foot two-story residence with basement and garage. It was built in 1993 on a 4,661 square foot lot in the Founders Village Subdivision.

Respondent assigned a value of \$226,059 for tax year 2015, which is supported by an appraised value of \$234,000. Petitioners are requesting an actual value of \$205,000.

Mr. Keenan purchased the subject property on September 26, 2012. A short sale, it needed paint and carpet, drywall repair, and some interior door replacement. Kitchen and bathrooms were dated, and landscaping was overgrown. No work has been done since purchase.

Petitioner’s witness, Al Parker, Broker for REMAX Professionals, presented a broker’s analysis with four comparable sales ranging in sale price from \$189,395 to \$223,400. All were two-story elevations located in the subject subdivision, and they bracketed the subject in size. Mr. Parker made adjustments for sales concessions and size and concluded to an adjusted value range from \$189,395 to \$219,731, the average being \$205,579. He testified that the subject was in “rough”

condition but did not address “condition” in his market grid. Mr. Keenan’s requested value of \$205,000 was based on Mr. Parker’s analysis and conclusion.

Respondent presented a value of \$234,000 for the subject property based on the market approach. Respondent’s witness, David Buchanan, Registered Appraiser for the Douglas County Assessor’s Office, presented six comparable sales ranging in sale price from \$215,000 to \$265,000. All were two-story elevations within the subject subdivision and bracketed the subject in size. Mr. Buchanan made adjustments for differences affecting the value, including sale concessions, time, age, basement size, basement finish, fireplace, and air conditioning. Adjusted sale prices ranged from \$229,963 to \$264,643. Assigning most weight to Sales One and Two (same model by the subject builder) with adjusted sale prices of \$255,334 and \$233,799, respectively, he concluded at the lower end of the range to an indicated value of \$234,000.

Mr. Buchanan made no adjustments for condition. Without the benefit of an interior inspection, he assumed that repairs were cosmetic and had been addressed. He assigned a condition rating of “good” to the subject and to all comparable sales.

Mr. Buchanan discussed his Sale One and Petitioner’s Sale One, the same property (5119 East Crestone Avenue). He noted that this property sold twice, first as a “fix-up” (including mold per MLS) for \$189,395 and three months later for \$249,900 as improved (assumed). Petitioner’s witness used the first sale (fix up) in his broker’s analysis, whereas Mr. Buchanan used the second (repaired).

Mr. Buchanan discussed Petitioner’s Sale Two (274 Ponderosa Street), which was described as a “fix-up” in MLS and which carried an IRS lien. He declined to compare it to the subject for three reasons: the IRS lien suggested duress; he considered its condition inferior to the subject’s assumed “good” condition, making it less comparable than homes in good condition; and it sold prior to the base period beginning January 1, 2013.

Mr. Buchanan declined use of Petitioner’s Sale Three (176 South Amherst Street), rather selecting six sales he considered more similar. However, he used Petitioner’s Sale Four (80 South Amherst Street) in his appraisal, making a downward adjustment for sales concessions and an upward adjustment for market conditions (time).

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015. It is the burden of the protesting taxpayer to prove that the assessor’s valuation is incorrect by a preponderance of the evidence. *Bd. of Assessment Appeals v. Sampson*, 105 P3d 198, 204 (Colo. 2005).

The parties based their valuations on different perceptions of “condition” for the subject property. Petitioner’s witness did not describe the physical condition of the subject property or his comparable sales and failed to adjust for differences (especially Sale One, which had mold and unknown other problems). He also failed to address factors that carry value in the marketplace (basement finish, fireplace, and air conditioning, among others). Respondent’s witness, without inspection, was forced to make extraordinary assumptions about interior features and physical

condition. The Board encourages both parties to arrange for an inspection as part of a resolution to disagreements in value.

As one indicator of value, both parties considered 80 Amherst Street to be a reasonable comparable in valuing the subject. Both parties applied a downward adjustment for sales concessions; however, Petitioner failed to apply an upward adjustment for improved market conditions occurring between the date of sale and the final day of the data gathering period (June 30, 2014) as required by Sections 39-1-104(10.2)(a) & (d), C.R.S. Respondent correctly applied the time adjustment to this sale, which indicated a value of \$233,799 for the subject.

The Board did not find persuasive Petitioner's methodology of averaging the adjusted sales prices in arriving to a final value. In this case, where Petitioner's witness prepared a broker's analysis selecting four comparable sales and making adjustments to those sales, a better supported value conclusion would have been one not based on the averages, but on one sale that was considered the most comparable for the subject.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered)

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of April, 2016.

BOARD OF ASSESSMENT APPEALS

Sondra W Mercier

Sondra Mercier

MeryKay Kelley

MeryKay Kelley

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

